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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/918,049	RAYE ET AL.	
	Examiner	Art Unit	
	Sarah R. Gedrich	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.  | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference character "100." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "100" has been used to designate both "the exemplary method" and "the preferred method." Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified

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and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:

- “more frequently” should be “less frequently” on page 11, line 3.

Appropriate correction is required.

### ***Claim Objections***

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim that depends from a dependent claim should not be separated by any claim that does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

Please note that claims 53 and 54 depend from claim 32. The claims are separated by the independent claim 45. Appropriate corrections are required.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-54 are rejected due to lack of antecedent basis recited in the limitations.

Some examples are:

- “the determined assortment of feminine care products” recited in claim 1, lines 5 and 9.

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- “the assortment” recited in claim 5, line 2.
- “said products” recited in claim 12, line 3.
- “the collecting step” recited in claim 35, line 1.
- “the group” recited in claim 45, line 5.

There is insufficient antecedent basis for the above-mentioned limitations in the subsequent claim.

Appropriate corrections are required. Applicant is encouraged to review the claims in their entirety and make corrections where needed.

3. Claim 47 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 47 recites “all three products form said group,” however “said group” only consists of “menstrual cramp medication and contraceptives.” It is unclear to what the third product is referring.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 32, 35, 40, 44, and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Unger et al. US Patent No. 6,093,027.

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5. Referring to claim 32. A method for determining a consumer-specific assortment of feminine care products, the method comprising the steps of:

- Collecting information from the consumer related to her monthly cycle; processing the information collected from the consumer; and recommending to the consumer an assortment of feminine care products based upon the processed information: The method of the present invention comprises three steps: collecting information from a consumer regarding her body size and menstrual cycle characteristics, selecting an appropriate system of feminine hygiene products from a group of two or more available systems of products, and providing information to the consumer identifying the products which make up the selected system allowing her to use the system of feminine hygiene products (Unger: Column 4, lines 6-13). The collection of information from a consumer and the selection of a system of feminine hygiene products may be performed using a computer (Unger: Column 3, lines 34-36).

6. Referring to claim 35 and 53.

- Collecting information related to a type of undergarment worn by the consumer while menstruating and a type of undergarment worn by the consumer while not menstruating: Table 1 shows examples of questions asked to determine the appropriate system. Panty size is included. Various other questions may be used either individually or in combination to place a particular consumer in one of the four body size categories (Unger: Column 5, lines 39-59). The Examiner

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notes that the type of garment includes size and may also be asked for style such as bikini, thong, etc. as part of the various questions.

7. Referring to claim 40.

- Collecting information related to the type of birth control used by the consumer:

Indicators of the proper flow intensity category for a given consumer include age, type of birth control used, number of pregnancies, and the consumer's self-perception of her flow intensity (Unger: Column 6, lines, 55-58).

8. Referring to claim 44.

- The consumer is at a first location and the processing step is performed at a second location remote from the first location: the information may be collected from a consumer and a system selected through the use of an interactive store display. Such a display could be equipped with an interactive computer which will prompt the user to answer questions, keep track of the answers, and select an appropriate system based on those answers as described above. In alternative embodiments, the information may be collected from a consumer though the use of an interactive site on the World Wide Web, or through the use of an interactive menu-driven phone system (Unger: Column 15, lines 6-16).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3, 6-21, and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz et al. Patent Application Publication US 2002/0050526 (hereinafter referred to as "Swartz") in view of Unger et al US Patent No. 6,093,027 (hereinafter referred to as "Unger").**

9. Referring to claim 1.

- Determining at a first location an assortment of feminine care products for a consumer at a second location remote from the first location based on information provided by the consumer, the determined assortment of feminine care products including a non-commercial quantity of at least one type of absorbent catamenial product: The method of the present invention comprises three steps: collecting information from a consumer regarding her body size and menstrual cycle characteristics, selecting an appropriate system of feminine hygiene products from a group of two or more available systems of products, and providing information to the consumer identifying the products which make up the selected system allowing her to use the system of feminine hygiene products (Unger: Column 4, lines 6-13). The collection of information from a consumer and the selection of a system of feminine hygiene products may be performed using a computer (Unger: Column 3, lines 34-36).
- Accepting at the first location a purchase order placed by the consumer at the second location for at least the determined assortment of feminine care products: Once the customer has completed their selection the shopping list is also



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provided with a general comment section to provide special instructions to the store or reminders to themselves. It is preferred that the central host acknowledge receipt and recognition of selected items by Email response or telephone call to the customer's location. (Swartz: paragraph 0135).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include determining at a first location an assortment of feminine care products for a consumer at a second location remote from the first location based on information provided by the consumer, the determined assortment of feminine care products including a non-commercial quantity of at least one type of absorbent catamenial product as taught by Unger in order to provide a method for the selection and use of a system of feminine hygiene products (Unger: Column 2, lines 45-47).

10. Referring to claim 2.

- Information is provided and said purchase order is placed by the consumer through a computer network: the steps of collecting information from a consumer regarding her body size and menstrual cycle characteristics and selecting a system of feminine hygiene products are performed in a substantially continuous, interactive process. For example, the information may be collected from a consumer and a system selected through the use of an interactive store display. Such a display could be equipped with an interactive computer which will prompt the user to answer questions, keep track of the answers, and select an appropriate system based on those answers as described above (Unger: Column 15, lines 2-12). The portable terminal of the present invention employs a

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wireless communication radio for communicating data to a central computer over a wireless communication network (Swartz: paragraph 0031).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the information provided and as taught by Unger in order to adapt the system to a particular group of consumers, which when used will achieve a reduction in the incidence of soiling (Unger: Column 2, lines 57-59).

11. Referring to claim 3.

- The determined assortment of feminine care products includes non-commercial quantities of multiple types of absorbent catamenial products: the feminine hygiene products making up the various available systems could be packaged individually or in packages of about 2 to 9 products per package (Unger: Column 15, lines 51-54).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the determined assortment of feminine care products includes non-commercial quantities of multiple types of absorbent catamenial products as taught by Unger in order to allow consumers to select a variety of products (Unger: Column 15, lines 55-56).

12. Referring to claim 6.

- The determining step includes presenting questions to the consumer regarding her monthly cycle, and said information represents the consumer's answers to said questions: It has been found during development of the present invention that certain key pieces of information regarding the body size and menstrual flow

characteristics of a particular woman may be used to assist her in the selection of a system of feminine protection products which is particularly adapted to her needs (Column 4, lines 44-49). Various other questions may be used either individually or in combination to place a particular consumer in one of the four body size categories (Unger: Column 5, lines 39-41).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the determining step includes presenting questions to the consumer regarding her monthly cycle, and said information represents the consumer's answers to said questions as taught by Unger in order to provide a reliable method for the selection and use of appropriate system of feminine hygiene products (Unger: Column 2, lines 62-64).

13. Referring to claim 7.

- The purchase order includes payment information: customer payment processing software for securely recording and verifying authorized customer payment for the selected items (Swartz: Claim 11).

14. Referring to claim 8.

- The purchase order includes a target delivery date: A customer may have staple items delivered every Saturday and supplement such deliveries with other delivery services as needed. In the event of regularly scheduled deliveries of staple items, the system may be provided with redundancy features and confirmation notices to ensure that the customer will require the items to be delivered on the next regularly scheduled delivery (Swartz: paragraph 0136).

15. Referring to claim 9.

- Storing data representing the determined assortment of feminine care products for subsequent retrieval and use with the consumer: An authorized user may access the system from their home computer (or dedicated order kiosk) and retrieve user specific data, which may be useful in placing their order. For instance, a user may select a list of items purchased on his or her last three shopping trips to the store or for items required for a selected recipe (Swartz: paragraph 0008).

16. Referring to claim 10.

- Fulfilling the purchase order placed by the consumer: Once the items are selected, the customer may then select to have the list stored, items collected for pick-up or delivery (Swartz: paragraph 0008).

17. Referring to claim 11.

- The fulfilling step includes delivering the ordered assortment of feminine care products to the consumer: Once the items are selected, the customer may then select to have the list stored, items collected for pick-up or delivery (Swartz: paragraph 0008).

18. Referring to claim 12.

- The fulfilling step includes delivering the ordered assortment of feminine care products to the consumer along with a reusable storage container for said products: The items collected by the attendant may be placed in the containers 570 and 571. These containers can be supplemented with bags 570A, 571A and

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are preferably provided with bar coded tags (Swartz: paragraph 0139). These "bags" could be reusable totes electronically matched to a customer identification code, and upon each delivery to the home, totes from the last delivery are retrieved and returned to the store (Swartz: paragraph 0143).

19. Referring to claim 13.

- The fulfilling step includes delivering a subsequent order of feminine care products to the consumer without a reusable storage container for said products: Once the attendant has completed the collection process, the attendant prints out customer stickers which are placed on bags used to transport a customer's selected items to the customer's delivery location (Swartz: paragraph 0141). The delivery site may include a refrigerated storage compartment or simply a storage box (Swartz: paragraph 0146). The examiner notes that bags used may or may not be reusable or that the container may or may not be used for deliveries or storage.

20. Referring to claim 14.

- Prompting the consumer to place another purchase order for an assortment of feminine care products: The system could require that a customer respond to a confirmation notice such as an E-mail message or an automated telephone query, i.e., this is an automated confirmation system for your delivery scheduled for tomorrow morning, please press 1 to confirm the delivery, press 2 to cancel delivery, press 3 to reschedule the delivery paragraph 0136).

21. Referring to claim 15.

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- The prompting step includes sending email to the consumer: The system could require that a customer respond to a confirmation notice such as an E-mail message or an automated telephone query, i.e., this is an automated confirmation system for your delivery scheduled for tomorrow morning, please press 1 to confirm the delivery, press 2 to cancel delivery, press 3 to reschedule the delivery (Swartz: paragraph 0136).

22. Referring to claim 16.

- The prompting step includes periodically prompting the consumer to place another purchase order for an assortment of feminine care products: In the event of regularly scheduled deliveries of staple items, the system may be provided with redundancy features and confirmation notices to ensure that the customer will require the items to be delivered on the next regularly scheduled delivery, and ensure that the customer is not away on vacation (Swartz: paragraph 0136). The examiner notes that since the delivery is regularly scheduled (Miller notes every Saturday, however the scheduling could be monthly, rather than weekly) that the prompting would also be related to the schedule.

23. Referring to claim 17.

- The prompting step includes advising the consumer of the assortment of feminine care products last ordered by the consumer: The system could require that a customer respond to a confirmation notice such as an E-mail message or an automated telephone query, i.e., this is an automated confirmation system for

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your delivery scheduled for tomorrow morning, please press 1 to confirm the delivery, press 2 to cancel delivery, press 3 to reschedule the delivery (Swartz: paragraph 0136). The Examiner notes that the confirmation notice may include confirmation of the products to be delivered. Since the products are staple products delivered regularly, the customer would confirm the last ordered products.

24. Referring to claim 18. Claim 18 is rejected on the same rationale as set forth above in claims 1 and 2.

25. Referring to claim 19.

- The recommended assortment of feminine care products includes multiple types of absorbent catamenial products: Each of the four systems in this preferred embodiment is comprised of at least two different types of sanitary napkins (Unger: Column 11, lines 62-64).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the recommended assortment of feminine care products includes multiple types of absorbent catamenial products as taught by Unger in order to provide products for use at different times during a given menstrual cycle (Unger: Column 11, lines 64 – Column 12, line 5).

26. Referring to claims 20 and 21. Claims 20 and 21 are rejected on the same rationale as set forth above in claim 3.

27. Referring to claim 23.

- The collecting, recommending and accepting steps are performed using a computer: The method of the present invention comprises three steps: collecting information from a consumer regarding her body size and menstrual cycle characteristics, selecting an appropriate system of feminine hygiene products from a group of two or more available systems of products, and providing information to the consumer identifying the products which make up the selected system allowing her to use the system of feminine hygiene products (Unger: Column 4, lines 6-13). The collection of information from a consumer and the selection of a system of feminine hygiene products may be performed using a computer (Unger: Column 3, lines 34-36). Once the customer has completed their selection the shopping list is also provided with a general comment section to provide special instructions to the store or reminders to themselves. It is preferred that the central host acknowledge receipt and recognition of selected items by Email response or telephone call to the customer's location. (Swartz: paragraph 0135).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the collecting, recommending and accepting steps are performed using a computer as taught by Unger in order to provide a home shopping system including a graphical data selection system for ordering items and creating shopping lists, and an improved material collection system (Swartz: paragraph 0007).

28. Referring to claim 24.



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- A computer network: The network could be either a local area network ("LAN"), such as Symbol's SPECTRUM24 spread spectrum frequency hopping communication network, or a wide area communication network system ("WAN") such as those employing a cellular digital packet data (CDPD) communication protocol, or a combination of LAN and WAN systems (Swartz: paragraph 0031).

29. Referring to claim 25.

- Allowing the consumer to revise the recommended assortment of feminine care products prior to placing a purchase order therefor: terminal includes a "plus" key to "add" an item selected by a consumer to a list of purchased items, a "minus" key to "delist" a previously selected item from the purchase list (Swartz: paragraph 0036).

30. Referring to claim 26.

- The recommending step includes recommending an assortment of feminine care products expected to meet the consumer's needs for one monthly cycle: each of said available systems is adapted to correspond to a predetermined range of body sizes and menstrual cycle characteristics (Unger: Column 3, lines 17-19).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the recommending step includes recommending an assortment of feminine care products expected to meet the consumer's needs for one monthly cycle as taught by Unger in order to adapt the system to achieve a reduction in the incidence of soiling (Unger: Column 2, lines 57-59).

31. Referring to claim 27.

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- The accepting step includes accepting a purchase order from the consumer for multiple units of the recommended assortment of feminine care products: Once the customer has completed their selection the shopping list is also provided with a general comment section to provide special instructions to the store or reminders to themselves. It is preferred that the central host acknowledge receipt and recognition of selected items by Email response or telephone call to the customer's location (Swartz: paragraph 0135).

32. Referring to claim 28.

- The accepting step includes accepting a standing purchase order for the recommended assortment of feminine care products: In the event of regularly scheduled deliveries of staple items, the system may be provided with redundancy features and confirmation notices to ensure that the customer will require the items to be delivered on the next regularly scheduled delivery, and ensure that the customer is not away on vacation (Swartz: paragraph 0136).

33. Referring to claim 29. Claim 29 is rejected on the same rationale as set forth above in claim 9.

34. Referring to claim 30. Claim 30 is rejected on the same rationale as set forth above in claim 10.

35. Referring to claim 31. Claim 31 is rejected on the same rationale as set forth above in claim 11.

**Claims 4 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Unger, in further view of "From sanitation to liberation?:"**

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**The modern and postmodern marketing of menstrual products” by Shelley M.**

**Park (hereinafter referred to as “Park”).**

36. Referring to claim 4.

- The determined assortment of feminine care products includes at least one product selected from the group consisting of menstrual cramp medication and contraceptive: A complete account of the ideological underpinnings of feminine hygiene products would examine the connections between the marketing of soaps, cleansers, [menstrual] aids and nonprescription contraceptives and home pregnancy tests (Park: Footnote 1.) The Examiner notes that menstrual aids such as Midol and nonprescriptive contraceptives are included in a complete account of feminine hygiene products.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Swartz and Unger to include the determined assortment of feminine care products includes at least one product selected from the group consisting of menstrual cramp medication and contraceptives as taught by Park in order to relieve symptoms associated with PMS (Park Pages 8-9).

37. Referring to claim 22. Claim 22 is rejected on the same rationale as set forth above in claim 4.

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Unger, in further view of Miller US Patent No. 5,947,302.**

38. Referring to claim 5.

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- Information represents a selection by the consumer of products which comprise the assortment: The method comprises a dispensing device containing at least two different types of absorbent articles and a means for allowing an individual to select one or more types of the absorbent articles in the dispensing device. At least one of the types of absorbent articles in the dispensing device is available in quantities of less than the quantities currently sold commercially (Column 2, lines 25-31)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Swartz and Unger to include a selection by the consumer of products, which comprise the assortment as taught by Miller in order to optimize the use of the products (Miller: Column 2, line 39).

**Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Kotex.com (hereinafter referred to as "Kotex").**

39. Referring to claim 33.

- Collecting information related to the consumer's physical activity while using an absorbent catamenial product: How active are you? (Kotex: page 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to include activity levels as taught by Kotex in order to suggest the right products (Kotex: page 1).

40. Referring to claim 36.

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- Collecting information related to the consumer's sleeping habits: How active are you? (Kotex: page 1). The Examiner notes that sleeping is located under the activity level.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include activity levels as taught by Kotex in order to suggest the right products (Kotex: page 1).

**Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Kotex, in further view of “The Super, Ultra, Maxi Revolution Practical View: The feminine-protection boom is producing mind-boggling array of Space Age pads. Some even have wings,; [Home Edition]” by Mary Ann Hogan (hereinafter referred to as “Hogan”).**

41. Referring to claim 37.

- Collecting information related to whether the consumer is a side sleeper: sleeping in certain no-leak positions (Hogan: page 3). The Examiner notes that certain positions leak more frequently than others which suggest that there exists multiple sleeping positions including sleeping on one's side.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Unger and Kotex to include collecting information related to whether the consumer is a side sleeper as taught by Hogan in order to provide leakage control and all the protection needed (Hogan: page 3).

**Claims 34, 39, and 54 rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Beimgirl.com.**

42. Referring to claim 34.

- Collecting information related to absorbent catamenial products which the consumer prefers not to use: Beinggirl.com offers women/girls to find their personal protection through “Always Personalized Protection,” which asks about preferences: “Wings or No Wings?” (Beinggirl.com Always Personalized Protection: page 4). Being girl also offers a “Tampax Product Recommender,” which also inquires to a users preference of applicators (Beinggirl.com Tampax Product Recommender: page 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include collecting information related to absorbent catamenial products which the consumer prefers not to use as taught by Beinggirl.com in order to provide “[what’s] most important to [the consumer]” (Beinggirl.com Tampax Product recommender: page 2).

43. Referring to claim 39

- Collecting information related to the frequency at which the consumer changes an absorbent catamenial product during waking hours: Beinggirl.com asks how often a tampon is changed during the heaviest day of a cycle (Beinggirl.com Tampax Product Recommender: page 5). The Examiner notes that the day includes waking hours.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include collecting information related to the frequency at which the

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consumer changes an absorbent catamenial product in order to recommend the absorbency needed (Beinggirl.com All About Tampons: page 1).

44. Referring to claim 54.

- Recommending thong pantliners for a consumer who wears thong underwear while not menstruating: Beinggirl.com advertises thong pantliners (Beinggirl.com Always: page 2).

It would have been obvious to one of ordinary skill in the art to modify Unger to include recommending thong pantliners for a consumer who wears thong underwear as taught by Beinggirl.com “[because] more women than ever are wearing thong underwear” (Beinggirl.com Always: page 1).

**Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Kotex as applied to claim 36 above, and further in view of Beinggirl.com.**

45. Referring to claim 38.

- Collecting information related to the frequency at which the consumer changes an absorbent catamenial product during a period of sleep: Beinggirl.com asks how often a tampon is changed during the heaviest day of a cycle (Beinggirl.com Tampax Product Recommender: page 5). The Examiner notes that the day includes sleeping hours.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Unger and Kotex to include collecting information related to

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the frequency at which the consumer changes an absorbent catamenial product in order to recommend the absorbency needed (Beinggirl.com All About Tampons: page 1).

**Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Park.**

46. Referring to claim 41.

- Collecting information related to menstrual cramping medication: A complete account of the ideological underpinnings of feminine hygiene products would examine the connections between the marketing of soaps, cleansers, [menstrual] aids, and nonprescription contraceptives and home pregnancy tests (Park: Footnote 1.) The examiner notes that medical aids such as Midol could be included in the various questions used to determine the proper system.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include collecting information related to menstrual cramping medication as taught by Park in order to relieve symptoms associated with PMS (Park Pages 8-9).

**Claims 42 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Unger in view of Swartz.**

47. Referring to claim 42.

- Accepting a purchase order from the consumer for at least the recommended assortment of feminine care products: Once the customer has completed their selection the shopping list is also provided with a general comment section to provide special instructions to the store or reminders to themselves. It is



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preferred that the central host acknowledge receipt and recognition of selected items by Email response or telephone call to the customer's location (Swartz: paragraph 0135).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include accepting a purchase order from the consumer for at least the recommended assortment of feminine care products as taught by Swartz in order to provide a home shopping system including a graphical data selection system for ordering items and creating shopping lists, and an improved material collection system (Swartz: paragraph 0007).

48. Referring to claim 43.

- Allowing the consumer to revise the recommended assortment of feminine care products and accepting a purchase order for said recommended assortment as revised by the consumer: The terminal includes a "plus" key to "add" an item selected by a consumer to a list of purchased items, a "minus" key to "delist" a previously selected item from the purchase list (Swartz: paragraph 0036). Once the items are selected, the customer may then select to have the list stored, items collected for pick-up or delivery (Swartz: paragraph 0008).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Unger to include allowing the consumer to revise the recommended assortment of feminine care products and accepting a purchase order for said recommended assortment as revised by the consumer as taught by Swartz in order to provide various user functions (Swartz: paragraph 0036).

**Claim 45, 48-49, 51, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Park.**

49. Referring to claim 45. A method of processing a purchase order for a feminine care kit the method comprising the steps of:

- Prompting a consumer to place a purchase order for a feminine care kit including at least one type of absorbent catamenial product and at least one additional product selected from the group consisting of menstrual cramp medication and contraceptives: In the event of regularly scheduled deliveries of staple items, the system may be provided with redundancy features and confirmation notices to ensure that the customer will require the items to be delivered on the next regularly scheduled delivery, and ensure that the customer is not away on vacation (Swartz: paragraph 0136). A complete account of the ideological underpinnings of feminine hygiene products would examine the connections between the marketing of soaps, cleansers, [menstrual] aids and nonprescription contraceptives, and home pregnancy tests (Park: Footnote 1.) The examiner notes that the staple products being confirmed include feminine hygiene products which Park notes include napkins, tampons, menstrual aids such as Midol, nonprescription contraceptives, etc.
- Accepting the purchase order placed by the consumer: Once the customer has completed their selection the shopping list is also provided with a general comment section to provide special instructions to the store or reminders to themselves. It is preferred that the central host acknowledge receipt and

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recognition of selected items by Email response or telephone call to the customer's location. (Swartz: paragraph 0135).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the kit containing catamenial products and cramp medication or contraceptives as taught by Park in order to address a complete account of feminine hygiene products (Park: Footnote 1).

50. Referring to claim 48.

- The prompting step and the accepting step are performed using a computer: In the event of regularly scheduled deliveries of staple items, the system may be provided with redundancy features and confirmation notices to ensure that the customer will require the items to be delivered on the next regularly scheduled delivery, and ensure that the customer is not away on vacation (Swartz: paragraph 0136). Once the customer has completed their selection the shopping list is also provided with a general comment section to provide special instructions to the store or reminders to themselves. It is preferred that the central host acknowledge receipt and recognition of selected items by Email response or telephone call to the customer's location. (Swartz: paragraph 0135).

51. Referring to claim 49.

- A computer network: The network could be either a local area network ("LAN"), such as Symbol's SPECTRUM24 spread spectrum frequency hopping communication network, or a wide area communication network system ("WAN")

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such as those employing a cellular digital packet data (CDPD) communication protocol, or a combination of LAN and WAN systems (Swartz: paragraph 0031).

52. Referring to claim 51.

- Fulfilling the accepted purchase order: Once the items are selected, the customer may then select to have the list stored, items collected for pick-up or delivery (Swartz: paragraph 0008).

53. Referring to claim 52.

- The consumer is at a first location and the prompting step is performed at a second location remote from the first location: In a further embodiment of the present invention, the central host delivers to the customer via an Email address on a customer's PC 45 (FIG. 1) a list of previously purchased items, or in the alternative, the central host makes available on a customer accessible but password protected web page the customer's prior purchase records and a complete listing of available items at the store (Swartz: paragraph 0134).

**Claims 46-47, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swartz in view of Park, in further view of Unger.**

54. Referring to claim 46.

- The feminine care kit includes at least two products selected from said group: Each of such available systems is comprised of at least two different feminine hygiene products (Unger: Column 3, lines 15-16).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Swartz and Park to include the feminine care kit includes at

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least two products selected from said group as taught by Unger in order to provide products for use at different times during a cycle (Unger: Column 11, line 64 – Column 12, line 2).

55. Referring to claim 47.

- The feminine care kit includes all three products from said group: A complete account of the ideological underpinnings of feminine hygiene products would examine the connections between the marketing of soaps, cleansers, [menstrual] aids and nonprescription contraceptives and home pregnancy tests (Park: Footnote 1.) The Examiner notes that the above listed groups are all contained under feminine care.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Swartz to include the feminine care kit includes all three products from said group as taught by Park in order to address a complete account of feminine hygiene products (Park: Footnote 1).

56. Referring to claim 50.

- Collecting information from the consumer related to her monthly cycle and recommending a feminine care kit comprising products selected according to the collected information: The method of the present invention comprises three steps: collecting information from a consumer regarding her body size and menstrual cycle characteristics, selecting an appropriate system of feminine hygiene products from a group of two or more available systems of products, and providing information to the consumer identifying the products which make up the

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selected system allowing her to use the system of feminine hygiene products

(Unger: Column 4, lines 6-13).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combination of Swartz and Park to include collecting information from the consumer related to her monthly cycle and recommending a feminine care kit comprising products selected according to the collected information as taught by Unger in order to provide a reliable method for the selection and use of appropriate system of feminine hygiene products (Unger: Column 2, lines 62-64).

### ***Conclusion***

57. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- "The thong remains the same; [1 Edition]." Hannah, David. The Herald. Glasgow (UK): May 19, 1998. pg 10.
- "Tips for beating travel hassles that women face; [SA2 Edition]." Dr. Neumann, Karl. Toronto Star. Toronto, Ont.: May 9, 1992. pg. H. 14.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah R. Gedrich whose telephone number is (703) 306-5449. The examiner can normally be reached on M-F 7:30am - 5:00pm, alternating Fridays.

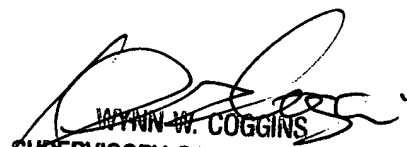
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on (703) 308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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